VIRGINIA LAW REGISTER

R. T. W. DUKE, JR., *Editor.*

BEIRNE STEDMAN, *Associate Editor.*

Issued Monthly at $5 per Annum. Single Numbers, 50 cents.

All Communications should be addressed to the PUBLISHERS

The Albemarle Bar, IX.

In the decade beginning with 1825 and ending in 1835, there qualified at the Albemarle Bar forty lawyers: Thomas J. Michie, of whom we gave a brief sketch in our August number was one of this number; Alexander Rives, Benjamin H. Magruder; John W. C. and Egbert R. Watson; Lucian and John B. Minor; Peachy R. Grattan, and John W. Stevenson are the only ones of whom even a brief notice is possible; though John H. Gilmer—a brother of Thomas Walker Gilmer—became a prominent lawyer in Richmond, and Hugh A. Garland, Wm. D. Hart, Wm. L. Randolph and Thomas L. Preston were men of prominence, not so much in the legal line as in other respects.

Alexander Rives was a son of the distinguished Wm. C. Rives. He took a prominent stand as a criminal lawyer and for a while was in partnership with Judge Egbert R. Watson. He was a man of great solemnity of mien, and had large and prominent eyes which glasses made rather owl-like. He wore side whiskers and had some oddities which grew with age. His favorite expression was "God bless my soul! Is it possible? is it possible?" which he used very frequently when anything excited his surprise. He was a "rabid" Whig, a violent Union man, and when the State seceded in 1861 he positively declined to take part in anything looking to a recognition of the Confederacy. So far did he carry his opposition that when his son, a gallant young gentleman who died in the service, entered the Confederate Army, he declined even to give him a horse or any material aid, and though a man of large means he never contributed a penny towards anything connected with the Confederacy. He declined even to sell any of his farm

produce to the Government, but allowed it to be requisitioned. He was the only lawyer at this Bar able to take the "Iron clad oath"—that disgraceful and hideous effort to put the white people of this grand old Commonwealth under the heel of the negro, carpet-bagger, and scalawag. He used his position as a fully qualified lawyer under Reconstruction to obtain "pardons" for those "miserable rebels" who were disenfranchised and forbidden to hold office under the Reconstruction Acts—at the rate of five hundred dollars per pardon. The consequence was he lost the respect and regard of many of his people, who had at one time honored him very highly, both as a lawyer and a man.

He was twice elected to the House of Delegates in 1835-37 and three times to the State Senate 1858-60. He soon became a prominent leader in the Republican Party of the wretched reconstruction days and it was pitiable to see him in the Court House presiding over a convention of that party, then composed of ninety-five per cent of negroes, and with very few white men in it whom Judge Rives would have allowed to enter his house in 1860.

He was a candidate of that party for Congress in 1870, but defeated by Colonel R. T. W. Duke, the Conservative candidate. Reverend Edgar Woods, in his valuable History of Albemarle County, says that he was once a Member of Congress. This is an error, as his career as a legislator was confined to the Virginia General Assembly. After his defeat for Congress he was given as a sort of "consolation stakes" the position of Federal Judge for the Western District of Virginia, and filled it for a number of years, retiring under the statute after ten years' service and arrival at the age of seventy years.

The Federal Court did not reflect great credit upon the cause of justice or of high standing under Judge Rives. His bitter partisanship caused him to do things unworthy of his better nature and high lineage. It was he who caused the arrest and trial of the county judges of Virginia upon the ground that they did not put negroes upon their jury lists. There was no cause of complaint in his own court in this respect; for the first few years of his service the majority of his jurymen were

negroes, and a large number of that race used to throng "Holcombe Hall", the old dirty theatre in Lynchburg in which for awhile his courts were held. The judge, jurymen, bar and officers of the court occupied the stage around which hung remnants of some long and ill-used scenery, whilst a motley crowd filled the seats. The writer's first experience of a Federal court was in this building. It was in winter; huge stoves heated the room and the atmosphere was something to be remembered with a shudder. The writer entered it with a very prominent, sarcastic and eminent member of the Albemarle Bar. As we went in the odor of the place struck us in the face and almost overpowered us. The writer's companion gasped and muttered in an undertone:

"Oh *his* offence is rank; it smells to heaven."

It was amusing to see the grave courtesy with which an hour later he addressed a jury composed of ten darkies as black as the ace of spades, and two white men of not very savory reputation, as "*Gentlemen* of the jury." The way in which he said "*gentlemen*" was worth a sixty mile trip to hear, and the old Judge who knew him well, shifted uneasily in his seat and glared at him through his huge spectacles as though he had thought of rebuking him. He knew his man too well, however, to remonstrate; for under the guise of the blandest and most courteous manner he could be the severest and most sarcastic speaker the writer ever heard. Federal courts were not in very good odor, physically or otherwise, in those days, but under the regime of Judge Paul—when the atmosphere cleared like sunshine after a dark thunder cloud—and the present able judge, they occupied, and occupy, the place of dignity and respect they should always have amongst the bar and the people. It was an unfortunate time—a hideous time—a time to be remembered as years of famine and pestilence are remembered—those reconstruction days and a few years after.

After his retirement from the bench Judge Rives resided in Charlottesville until his death in 1885.

Benjamin H. Magruder was the descendant of a Maryland family moving into Albemarle in the early part of the nineteenth century. His people were of Scotch descent and of great

energy and enterprise. They were of much public spirit and largely engaged in the improvement of the navigation of the Rivanna River. They built and managed with eminent success cotton and woolen mills which did a large business and added much to the prosperity of the County. The war destroyed this valuable industry.

Col. Magruder studied law at the University of Virginia in 1825-6 and commenced practice soon thereafter, making his home in Scottsville. Subsequently he moved to his farm on the Rivanna, where he resided until his death in 1885. He was an able lawyer; shrewd, wise and excellent in his management of his cases. He continued practice after the Civil War and associated with him his son Henry M. Magruder, a young man of most brilliant promise, who died on the threshold of what should have been an eminent career. After his son's death Colonel Magruder gave up practice and retired to his farm near Keswick. He represented this County in the Legislature for five terms.

John W. C. Watson and his distinguished brother Egbert R., were both men of the highest order of ability in every respect. John W. C. Watson studied law at the University of Virginia, graduating in 1830. After practicing a while in Albemarle he moved to Holly Springs, Mississippi, where he became a judge, and later Senator from that state in the Confederate States Senate.

Of Judge Egbert R. Watson we have written in our January number (Vol. VI, N. S., p. 686). In that brief sketch we alluded more to Judge Watson in a judicial capacity than as a lawyer and man. Born in 1810 at Milton in this County, a descendant of the Scotch Highlanders who were out with Prince Charlie and were in consequence transported to Virginia, his forbears and the Michies came to Virginia together. He entered the University at the early age of seventeen, remaining there two sessions. Whilst a mere youth he was selected to make the address of welcome to General Lafayette on his visit to Monticello and Charlottesville in 1826. Young Watson was an officer in the Junior Guards who accompanied the General to Monticello, and on his arrivel there he made a

brief but charming address, which we have been privileged to read. It was well conceived and no doubt well delivered. The General made a brief and complimentary reply and predicted a bright future for the young orator. Soon after leaving school young Watson became a member of the family of President James Monroe, at Aldey in Loudoun County. In the life of Monroe, published in the Statesmanship Series, he wrote an exceedingly interesting account of Monroe's domestic life. The Ex-President did not lose his interest in young Watson after he entered the University and later on began to practice law. There is now in the possession of Judge Watson's family quite a number of letters from the Ex-President to the young lawyer, giving him excellent advice and predicting for him a brilliant future. Neither he nor Lafayette proved false prophets. Qualifying to practice at a very early age, young Watson soon took a high stand at the Bar. He was careful, diligent, earnest, and recognized to its fullest extent his duty alike to his client and the Court. He revolutionized the lax methods of pleading and for a while was absolutely hated by the lazy old attorneys who drew no declarations but had a "gentleman's agreement" never to demur to anything. But the young lawyer kept his way unmoved by dislike or scorn, and his uniform courtesy and great ability soon overcame all prejudice. For many years the Albemarle Bar was noted for the high standing of its members as Common Law pleaders. Judge Watson was a persuasive though not an eloquent speaker, rarely raising his voice above the conversational tone, but when he did emphasize a point it was in such a way as to draw the attention of every one in the court room. He made few gestures, generally holding his spectacles in one hand and now and then polishing them with a white silk handkerchief he held in the other. He was an unusually fine chancery lawyer and wrote up to his dying day a very minute but beautiful hand, forming each letter with the greatest care. Elected Judge after the Civil War, he was painstaking and careful and nearly worked himself to death. He drew with his own hand every chancery decree entered in his circuit; the lawyers submitted memoranda and from them he framed and wrote his

own decree. The immensity of such labor can only be understood by those who knew the large number of chancery suits in his circuit.

In private life he was a most beautiful character. A Presbyterian of the old school, he was a ruling elder for many years in the Charlottesville Presbyterian Church and a faithful, earnest, consistent Christian.

"No man was ever a better friend and neighbor, or a more upright gentleman than Judge Watson," said one of the older lawyers who had practiced with him many years, "but he was the hardest fighter and the most unmerciful antagonist I ever knew in the court-room."

He represented the County in the State Senate in 1853; Alexander Rives, subsequently his law partner, being in the House at the same time. He was married three times, his second wife dying within a year after marriage. He had three sons and four daughters by his first marriage and is represented at the Albemarle Bar today by his grandson, William Allan Perkins, Esq. He died in 1887.

John W. Stevenson was a son of Andrew Stevenson, Member of Congress and Minister to England, his mother being Sarah Coles, of the Coles family for many years one of the wealthiest and largest landowners in the County. He was born on his father's plantation in this County and qualified to practice at the Albemarle Bar in 1834. After practicing a short while he removed to Kentucky, was Governor of that State in 1867 and represented it in the United States Senate in 1871.

The American Bar Association Meeting.

The meeting of the American Bar Association held in Cincinnati in August was characterized by a large attendance and by the presence of many eminent men. Chief Justice Taft urged measures to reduce delay in the Courts and recommended the appointment of eighteen new Federal judges to aid in clearing the docket. Judge Charles A. Woods, United States Circuit Judge from South Carolina, read a paper in which the following lan-

guage was used and to which the attention of our people may well be called:

> "When for the gratification of their appetites lawyers, merchants and manufacturers, and social leaders, both men and women, scoff at this law, or any other law, they are aiding the cause of anarchy and promoting mob violence, robbery and homicide.
>
> "They are sowing dragon's teeth and they need not be surprised when they find that no judicial or police authority can save our country or humanity from reaping the harvest."

A letter from President Harding, however, took the ground that "A liberal attitude towards those who question the law will lead to better safeguarding the good we possess and rightly shaping the measures of progress we must have"—a sentiment also well worth careful consideration.

Hon. Elihu Root's report on "Legal Education" aroused considerable controversy over the requirements for admission to the Bar. The report, after much discussion was adopted. It recommends two years' college course and three years' law schooling in institutions maintaining certain standards.

The opening address was made by James M. Beck, Solicitor General of the United States.

Attorney General Daugherty and John W. Davis, former United States Ambassador to England, were among the other speakers.

Theories of political philosophy now "advanced by those who either violate law or sympathize with law violators" in industrial conflicts, agitation to upset American forms of government and against enforcement of prohibition statutes, are the greatest forces at work in the United States to undermine respect for the law, Attorney General Daugherty declared.

Arguing equally against sentiment that regards a convicted I. W. W. as a "hero of conscience" and "political prisoner," that holds a bootlegger an exponent of "personal liberty" and sets up the slogan of "human rights against property rights" in employment disputes, Mr. Daugherty asserted fallacy and danger lay in all.

The Attorney General, in his address, which was his first

since assuming office, suggested a method of informing public opinion by semi-governmental means to obviate industrial conflicts, but advocated complete disregard for the theories advanced in the two other fields. He declared the demand for "personal liberty" in prohibition enforcement had been "advanced in the past by every champion of lawlessness who has sought excuse for unlawful conduct."

Resentment of large corporations of "persons and capital" against "interference of laws regulating them," Mr. Daugherty said, involved a "mistaken attitude," for "law and order is the shield of business and its only security."

The Attorney General, who recently made a study of the cases of Eugene V. Debs and others serving sentences for violation of war-time laws, discussed at length the question of "political offenders."

"There is now being disseminated extended propaganda to dignify the crimes committed by many persons now in prison for disloyal conduct, or obstructing the government in the war with Germany by general doctrine or political offenses," he said, "to create a public sentiment, not only to have such persons freed, but to have this doctrine of political offenses recognized as part of our domestic law, the purpose being to allow such criminals and those in sympathy with them to continue such opposition to law and order with impunity.

"This propaganda has been waged by persons mainly hostne to American institutions for the purpose of educating the public, as they term it, to the fundamental distinction between political offenses and common crimes. These propagandists term all the anarchists, I. W. W.'s and Socialists convicted of law violations idealists and heroes of conscience, and demand their release on the ground that their acts are political offenses merely.

"Many well meaning persons feel that it is sufficient reason for the release of these people to say that they are political prisoners. Men have often been taken off their guard by catch phrases and slogans that seem to express an idea. It is one of the most dangerous cloaks that has yet been devised by enemies of our constitutional system of government to cover lawlessness and disrespect for law. A man may have certain religious or

political opinions, but one who not only violates the laws his country imposes but uses his full powers to induce others to violate law is going too far to excuse himself."

Revolt against tradition and authority has sprung up not only against the political state, but in music, art, poetry and commerce until the age has become "preeminently one of sham and counterfeit," Mr. Beck said. He spoke on "The Spirit of Lawlessness."

"The statistics of our criminal courts in recent years show an unprecedented growth in crime," he continued. "But this revolt against authority is not confined to the political state. In music, its fundamental canons have been thrown aside and discord has replaced harmony. Its culmination—jazz—is a musical crime.

"In the plastic arts the criteria of beauty have been swept aside by the futurists, cubists, vorticists and other æsthetic Bolsheviki. In poetry, beauty of rhythm and nobility of thought have been replaced by exaltation of the grotesque and brutal.

"In commerce the revolt is one against purity of standards and the integrity of business morals. Who can question that this is preëminently the age of sham and counterfeit?"

Accompanying the indisposition to work, the Solicitor General continued, has been a "mad desire for pleasure such as has not been seen within the memory of living man."

Speaking of newspapers, he deplored the increase in "the ephemeral and trivial," saying that pages were devoted to sport "while literary, art and musical reviews and scientific discussions are omitted or given little space."

The average Englishman, with all his proverbial insistence upon his personal rights, calls less often upon his courts for relief than does his American cousin, declared Mr. Davis in his address, in which he gave "some random observations on the organization of the legal profession in England and the administration of English justice."

Sir John Simon, K. C., former Attorney General of England, and president of the British Bar Association, paid tribute to the legal fraternity of the United States at a night session.

Love of liberty, a joint literature, the same language and the

common law were declared by Sir John to be the four evangelists of the gospel of Anglo-American friendship.

Suggestions to the Legislature by the Court of Appeals—Registration of Defective Contract for Sales of Personal Property—Individual Names of Partners.

It is not often that our Court of Appeals makes suggestions to our General Assembly, but in our humble judgment if they would only do this oftener it would be of great benefit not only to the legal profession but to the entire Commonwealth. The Court has generally been in the custom of simply saying to the suitors in the Court that this is a question that has to be settled by the Legislature and not by the judicial branch of the Government. In the case of Woodson, etc. *v.* Gwathmey, Clerk, which was a suit against the clerk of the circuit court of Norfolk County, alleging that he had improperly docketed a reservation of title contract in failing to make a memorandum on the record showing when and how the amount due therein was payable, the main defense was that the contract was defective in failing to state the names of the individuals composing the vendee partnership, hence that it was inherently incapable of being lawfully indexed. The lower court held upon demurrer that the defendant clerk was not liable, but the Supreme Court reversed the lower court and held that if indexed in the name of the vendee partnership it was lawfully indexed under the Virginia statute, there being nothing in the act requiring the names of the individual members of a partnership to be set out. The Court thereupon concludes its opinion as follows:

> "Our conclusion therefore is that this contract is upon its face valid and that if indexed in the name of the vendee partnership, Greenwood & Christ, it was lawfully indexed under the Virginia statute. The subject, however, should receive the attention of the General Assembly, and in order that the record shall give further notice such contract should be required expressly to state whether the vendee is a

> names of the copartners shall be stated and that they shall be indexed in the name of each partner, as well as in the name of the firm."

While we thoroughly agree with the Court that the contract was valid, and that the law ought to provide that the contract should set out whether made with a corporation or partnership, yet we must confess we hardly see the necessity of setting out the names of the individual partners in a case of this sort. What advantage is there in it? We may venture to state that in certainly ninety cases out of a hundred no one could tell the names of the individual partners of any firm in the State of Virginia. Partnerships are generally known by their names, just as corporations are, and certainly in recording a contract of this sort to index in the names of the individual partners would not accomplish anything as to giving notice. We think, however, that it would be a most excellent idea, if every partnership was required to file in the clerk's office of the corporation or circuit court, as the case may be, a memorandum to be recorded, showing the individual names of the firm, for the very reason we have stated—that it is very often utterly impossible to find out the names of the individual members of a partnership. Corporations are required to file a list of their officers in the city or county in which their principal office is situated, and yet anyone by writing to the Corporation Commission can get this information; but how can any one get any information as to a partnership if the partners do not choose to disclose it. It very often happens that the firm is carried on in the old firm name when one member of the firm is dead.